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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,372	12/29/2000	Jacob Christensen	42390P10205	1521
8791	7590	03/08/2006	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			HYUN, SOON D	
			ART UNIT	PAPER NUMBER
			2661	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,372

Applicant(s)

CHRISTENSEN, JACOB

Examiner

Soon D. Hyun

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8, 10-14, 17-19, 22-24, 27, 31-39 and 45-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-8, 10-14, 17-19, 22-24, 27 and 31-39 is/are allowed.
- 6) ☒ Claim(s) 45 and 47 is/are rejected.
- 7) ☒ Claim(s) 46 and 48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 45 and 47 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 45 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckman (U.S. Patent No. 6,891,855) in view of Roy et al (U.S. Patent No. 6,243,359).

Bruckman discloses that a method to manage packet fragmentation, comprising:
determining an operating parameter for a packet, wherein the operating parameter represents a priority level, i.e., a dynamic fragmenter (28 in FIG 1) determines a priority level of a packet (col. 5., lines 6-7);

determining an operating status (active to fragment) to be set in accordance with the priority level, i.e., the dynamic fragmenter determines the fragmentation (active) based on a temporary fragment length when it receives a packet with low priority and the dynamic fragmenter determines the fragmentation (active) when delay of a packet with high priority is greater than the Max_Wait (col. 5, lines 26-34);

performing packet fragmentation substantially in accordance with the operating status (col. 5, lines 12-25).

However, Bruckman does not teach that the fragment size decreases as the priority level increase or the fragment size increases as the priority level decreases as recited in claims, but the size of fragmentation of a low priority packet is determined based on Max_Wait and the current data rate (col. 5, line 6-25), i.e., Bruckman does not teach multiple level of priority for the low priority.

Roy et al (Roy) teaches that packets are classified into a plurality of priority levels based on delay.

Those of skill in the art would have been motivated by Roy to classify the low priority packet into multiple priority levels by assigning different Max_Wait to the different priority levels to control network delay more efficiently.

Therefore, it would have been obvious to one having ordinary skill in the art to incorporate multiple priority levels for the low priority level to decrease the fragment size for higher priority level (more delay sensitive packets) with smaller Max_Wait and increase the fragment size for lower priority level (less delay sensitive packet) assigning different with greater Max_Wait to control network delay more efficiently.

Allowable Subject Matter

4. Claims 3-8, 10-14, 17-19, 22-24, 27, 31-39 are allowed.

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5. Claims 46 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon D. Hyun whose telephone number is 571-272-3121. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


S. Hyun
03/05/2006


ANDREW C. LEE
PRIMARY PATENT EXAMINER